

Sept 20th, 2007

Commission's Secretary  
Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

Deena Shetler: deena.shetler@fcc.gov  
FCC Contractor: fcc@bcpiweb.com

Re: WC Docket No. 06-210  
CCB/CPD 96-20

Dear FCC Staff:

AT&T on page 9 of its initial brief to the DC Circuit in 2004 stated the following:

**AT&T denied this second proposed transfer  
to PSE on January 27, 1995.**

The above statement that AT&T made is not only a blatant lie but actually serves to show that AT&T understood section 2.1.8's 15 day statute of limitations provision at 2.1.8(c). AT&T obviously did not provide any evidence to the DC Circuit of such a denial, which surely would have had to be made by letter to either petitioner's President Mr Inga, CCI's president Mr .Shipp or PSE's president Mr Scardino. PSE was a co-plaintiff party along with petitioners and CCI before Judge Politan in 1995 before dropping out because its interests were being pursued by the remaining two plaintiffs. No notification was sent to any of the parties.

The date of the “traffic only” transfer was Jan 13<sup>th</sup> 1995 as indicated on the TSA’s at exhibit F of petitioners 9/27/06 FCC comments.

**AT&T simply made up a date that was within 15 days of Jan 13<sup>th</sup> 1995 so AT&T stated it “denied this second proposed transfer to PSE on Jan, 27<sup>th</sup>, 1995”.**

The actual first contact by AT&T concerning the “traffic only” transfer was made by AT&T on February 6<sup>th</sup> 1995 to petitioners then counsel Mr. Curtis Meanor. The FCC can see a copy of this letter exhibited as X within petitioners 9/27/06 FCC filing. The relevant excerpts are here:

Dear Mr Meanor:

**Two matters respecting your client, Alfonse Inga, require immediate attention.** The first...

(OMMITED HERE AS NOT RELEVANT)

.....The second matter is of equally serious concern. We have reason to believe that Mr. Inga **is attempting** to transfer end users from existing plans that have over \$50 million on commitments. Mr. Inga’s efforts to transfer these end users and leave the plans intact with their commitments, but without the ability to satisfy those commitments, appears to us to be an attempt to defraud AT&T by obtaining the benefits of a transfer of service and at the same time deprive AT&T of the commitments made to obtain that service. AT&T will seek to enforce its rights in the event shortfall and termination charges become due under the tariff and will hold Mr. Inga personally liable for his conduct intended to deprive AT&T of its tariff charges. If this strategy is intended by Mr Inga to culminate in the bankruptcy of his affiliated companies, **AT&T intends to object to these transfers** as fraudulent under section 542 (a) (2) of the Bankruptcy Code and to pursue any available rights AT&T has.

**Please bring these matters to your client’s attention immediately and advise me of his response.**

Very truly yours,  
Frederick L Whitmer

CC: Edward R. Barillari, Esq.

Notice these statements in the Whitmer letter:

“Two matters respecting your client, Alfonse Inga, require immediate attention”

“is attempting”

“AT&T “intends” to object to these transfers”

Please bring these matters to your client’s attention immediately and advise me of his response.

Obviously these AT&T statements -----of its head outside counsel Mr Whitmer and copied to its head inside counsel Mr Barrillari----- which were made 2/6/95 was after AT&T’s alleged 1/27/05 denial. These statements would have never been made had a denial already been issued.

Obviously this February 6<sup>th</sup> 2007 letter was the first contact by AT&T regarding the “traffic only” transfer. Obviously there was no previous Jan 27<sup>th</sup> 1995 denial. After 11 years AT&T simply asserted for the first time ever that it denied the “traffic only” transfer within 15 days.

In fact this February 6<sup>th</sup> 1995 letter was not even a denial of the “traffic only” transfer. Mr. Whitmer’s letter was simply a warning –not a denial—and was baseless given the fact that the CSTPII/RVPP plans commitment had already been met and the plans were pre June 17<sup>th</sup> 1994 immune from shortfall and termination charges. These were things that Mr Whitmer should have knows at the time of his February 6<sup>th</sup> 1995 letter and at the time of the Jan 13<sup>th</sup> 1995 “traffic only transfer”. He did not know at that time that there was a contractual arrangement to get the traffic back, but given the first two facts his warning was still not justified.

Petitioners brought up the 15 day statute of limitation within its 9/27/06 filing page 19 para 58:

The date of the initial warning letter is 2/6/05 and the TSA’s were counter signed 1/13/05; thus it is an undisputed fact that AT&T failed 2.1.8’s 15 day statute of limitations.

Also see complete details of petitioners 15 day argument within petitioners 1/31/07 FCC Comments on page 146

XXX      AT&T Failed the 15 day Statute of Limitations Evaluation  
Period Within Section  
2.1.8.....page 146

The FCC should take a close look at the subsequent May 1996 version of 2.1.8 found at exhibit C in petitioners 1/31/07 filing in which it is explicit that 15 days is a hard statute of limitations date

The question the FCC has to ask is why didn’t AT&T respond in its Dec 20<sup>th</sup> 2006 FCC comments nor Jan 31<sup>st</sup> 2007 FCC comments that AT&T had denied the “traffic

only” transfer within 15 days? AT&T simply argued to the FCC in 2006 and 2007 that the 15 days was not a statute of limitations date to deny the “traffic only” transfer.

Furthermore if the FCC looks at the First District Court Decision of May 1995 (exhibited within petitioners 1/31//07 filing) AT&T never refuted that it blew section 2.1.8’s statute of limitations date of 15 days. Imagine if AT&T had actually denied the “traffic only” transfer within 15 days that AT&T simply forgot to tell the Judge Politan!!!

The reason why AT&T did not bogusly argue to the FCC in Dec 2006 & Jan 2007 that it did deny the “traffic only” transfer within 15 days (but show no evidence of it) is

1) the FCC would realize that AT&T clearly understood that under section 2.1.8(c) the 15 days is a hard statute of limitations date and

2) the AT&T February 6<sup>th</sup> 1995 letter had already been submitted as evidence by petitioners in its opening filing on 9/27/06. AT&T knew that if the FCC staff read the February 6<sup>th</sup> 1995 letter and AT&T simultaneously asserted that it denied the “traffic only” transfer within 15 days, the Commission would surely recognize AT&T was again scamming the FCC. So AT&T simply conjured up another bogus excuse in its Dec 20<sup>th</sup> filing as to why the 15 days does not mean 15 days.

AT&T’s egregious fabrication of a “denial date within 15 days” to the DC Circuit only serves to let the Commission know that AT&T clearly understood what the 15

days meant. The Commission should also re-read Mr Whitmer's February 6<sup>th</sup>, 1995 letter in relation to Mr Whitmer's clear message that S&T obligations stay with the plan on the "traffic only" transfer ordered.

The FCC must issue a ruling stating that AT&T violated its tariff by not adhering to section 2.1.8(c)'s statute of limitations date and all other issues are mute.

Respectfully Submitted  
One Stop Financial, Inc  
Winback & Conserve Program, Inc.  
Group Discounts, Inc.  
800 Discounts, Inc

/s/ Al Inga  
Al Inga President